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(UNITED STATES PATENT AND TRADEMARK OFFICE REGISTRATION #52,808)

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Assistant Commissioner for Patents
Washington, D.C. 20231 **(By FAX to 703 872 9306)**

Before the United States Patent & Trademark Office
Application No. 10/628,891
A. Michael Chambers, Examiner
Art Unit 3753

Reply to Office Action with a mailing date of 13 December 2004

Please note: The Office Action was marked as "Responsive to communication(s) filed 07 June 2004." This reply was prepared on the assumption that the Office Action was responsive to communications filed 07 June 2004 and 11 August 2004.

After carefully reviewing the teaching of Grün (U.S. Patent 666,051) and the teaching of Reid (U.S. Patent 3,594,825), we must respectfully disagree with the rejection of claims 1-17 based on 35 U.S.C.§103.

It is respectfully asserted that:

1. No prima facie case of obviousness has been established.
2. There is factual basis to overcome any prima facie case of obviousness, even if such a case exists.

If either of the above assertions is correct, the rejections are not appropriate. ***In re Fritch***, 23 USPQ 2d 1780, 1783 (Fed. Cir. 1992)

- In the Office Action it is stated that "Reid discloses the claimed invention except for the recitation of the exterior outlet separated from the 'city water inlet' 18 of Reid as taught by the water outlet G of Gron."

    - The exterior water outlet separated from the city water inlet is at the heart of the invention. It is not an unimportant change. The advantages of this improvement are discussed at length in the application.

    - Reid discloses NO exterior water outlet (separated from the utility hook-up or otherwise). Reid does disclose a waste water outlet. However, the uses, designs, and purposes of a wastewater drain and an outlet dispensing potable water are dramatically different. (Although the term "potable" is not used in application 10/628,891, it is clear from context within the application that that is the intent.) The faucet component of the invention disclosed in application 10/628,891 is not intended to release waste fluids where allowed. Its purpose is to provide useful, potable water at a convenient location. This is quite different from any feature (in any location) on the recreational vehicle taught by Reid.

    - Calling "G" of Grün a "water outlet" does not make it so. "G" of Grün is a discharge pipe for beer. Calling "C" of Grün a "water inlet" does not make it so. "C" of Grün is a beer supply pipe. Calling "A" of Grün a "recreational vehicle" does not make it so. "A" of Grün is a tank wagon for delivering fermented liquors.

- In the Office Action, it is stated that "The 'fluid system' of Gron is readily usable on any of the recited vehicles." While it may be possible to install a fluid system which is essentially that of Grün in a recreational vehicle, and while it is possible that, after modification, what used to be a recreational vehicle could be used to transport beer, it would in no way serve the functions of a recreational vehicle plumbing system.

- The Office Action includes "Note the toilet E sewage outlet and meter 26 disposition of Reid." We apologize for the fact that the meaning of "meter" in that sentence is unclear to us. More generally, we apologize for the fact that the significance of the toilet E and conduit 26 disposition is unclear to us. If the intention is to indicate that they are on different sides, then it should be noted that:

    - The toilet and pipe do not serve as a water inlet for the vehicle and a water outlet from the vehicle.

- The toilet and pipe are not exterior to the vehicle at all.

- The water which exits from the faucet component of the preferred embodiment of the invention disclosed in application 10/628,891 is pressurized by the water pump of the recreational vehicle (when the recreational vehicle is not connected to city water) and by the pressure of city water (when the recreational vehicle is connected to city water). The water flow in the plumbing system taught by Reid is based on gravity. The beer is forced out of Grün's beer tank wagon due to pressure of carbon dioxide. No hypothesized combination of the teachings of Grün and Reid would allow water to exit from a faucet by pressure caused by the water pump of the recreational vehicle (when the recreational vehicle is not connected to city water) and by the pressure of city water (when the recreational vehicle is connected to city water). This is another significant way that the teachings, even if combined, give a quite different result than the preferred embodiment of the invention disclosed in application 10/628,891.

- The difference between a recreational vehicle and a tank wagon for delivering fermented liquors cannot be viewed as a mere "design choice." ***In re Chu***, 36 USPQ 2d 1089, 1095 (Fed. Cir. 1995) and ***In re Gal***, 980 F.2d 717, 25 USPQ2d 1076 (Fed. Cir. 1992)

  - A recreational vehicle could not effectively serve the function of Grün's tank wagon for delivering fermented liquors. Similarly, it strains the imagination to picture Grün's beer tank wagon being used as a recreational vehicle. If the two cannot be used for each other's function, the substitution of a recreational vehicle for a tank wagon for delivering fermented liquors cannot be considered a mere design choice.

  - Additionally, the fluid system of Grün's beer wagon could not effectively serve as a recreational vehicle plumbing system. Similarly, a recreational vehicle plumbing system would not work well for beer transportation. If the two cannot be used for each other's function, the substitution of a recreational vehicle plumbing system for a beer wagon plumbing system cannot be considered a mere design choice.

- Advantages for the placement of the water outlet in the invention disclosed in the specification of application 10/628,891 are specifically discussed at length in that specification. Grün does not explicitly discuss the selection of specific locations for "C" and "G" or state that those specific locations have special significance. Although Grün does not explicitly state a reason for the positions he chooses for "C" and "G," the motivations could not logically have been the same as for the invention disclosed in the specification of application 10/628,891. The reasons for

placement being different, the placement teachings of Grün cannot be appropriately applied in this case.

- The beer wagon art is a nonanalogous art to the recreational vehicle art to which the invention disclosed in application 10/628,891 pertains. Those skilled in the recreational vehicle art would not be reasonably expected to look to beer wagons to solve the sort of problem of user convenience and sanitation addressed in application 10/628,891. "In resolving the question of obviousness under 35 U.S.C. ' 103, we presume full knowledge by the inventor of all the prior art in the field of his endeavor. However, with regard to prior art outside the field of his endeavor, we only presume knowledge from those arts reasonably pertinent to the particular problem with which the inventor was involved." ***In re Wood***, 202 USPQ 171, 174 (C.C.P.A. 1979).

    - The fact that beer wagons and recreational vehicles have wheels and "include fluid handling systems" does not in itself make the arts analogous. That broad category would encompass not only beer wagons and recreational vehicles but certain irrigation equipment, toy fire trucks, insulated water containers with wheels (such as those used by sports teams), port-a-potties, household dehumidifiers, the space shuttle and gas grills. That is clearly too broad.

    - The leap from beer wagons to recreational vehicles is greater than leaps that have been deemed too great for arts to be considered analogous.

        - One type of filter has been held not to be analogous art to another type of filter. ***Ex parte Re Qua***, 56 USPQ 279, 280 (Pat. Off. Bd. App. 1942).

        - One type of memory circuit in computers has been held not to be analogous art to another type of memory circuit in computers. ***Wang Labs., Inc. v. Toshiba Corp.***, 26 USPQ 2d 1767, 1773 (Fed. Cir. 1993)

    - Patent Office classification of references is some, albeit limited, evidence of analogy or nonanalogy. MPEP § 2141.01(a).
        - The current Patent Office classifications listed for the Grün patent are 4/663; 4/209FF; 4/323; 4/415; 4/626; 4/664; 4/665.
        - The current Patent Office classifications listed for the Reid patent are 222/152; 137/211; 137/899; 222/399; 222/608.
        - The total lack of overlap in the Patent Office classifications is one more factor suggesting that Grün and Reid are nonanalogous.

- Although the invention disclosed by Grün and the invention disclosed in application 10/628,891 both include liquid handling systems, the problem solved by the invention disclosed in application 10/628,891 is quite different from the problem solved by the invention disclosed by Grün.

- No motivation is found in Grün or in Reid for combining the teachings of those references. No other reference is cited indicating such motivation. The showing of a suggestion, teaching, or motivation to combine the prior art references is an "essential evidentiary component of an obviousness holding." ***C.R. Bard, Inc. v. M3 Sys. Inc.***, 157 F.3d 1340, 1352, 48 USPQ 2d 1225, 1232 (Fed. Cir. 1998). The showing of a suggestion, teaching, or motivation to combine the prior art references must be clear and particular. Broad statements about the teaching of multiple references, standing alone, are not evidence. ***Dembiczak,*** 175 F.3d at 1000, 50 USPQ2d at 1617. "The mere fact that a worker in the art could rearrange the parts of the reference device to meet the terms of the claims on appeal is not by itself sufficient to support a finding of obviousness. The prior art must provide a motivation or reason for the worker in the art, without the benefit of appellant's specification, to make the necessary changes in the reference device." ***Ex parte Chicago Rawhide Mfg. Co.***, 223 USPQ 351, 353 (Bd. Pat. App. & Inter. 1984) "The combination of elements from non analogous sources, in a manner that reconstructs the applicant's invention only with the benefit of hindsight, is insufficient to present a prima facie case of obviousness. There must be some reason, suggestion, or motivation found in the prior art whereby a person of ordinary skill in the field of the invention would make the combination. That knowledge can not come from the applicant's invention itself." ***In re Oetiker***, 24 USPQ 2d 1443, 1446 (Fed. Cir. 1992)

- Applicant's "Reply to Office Action with a mailing date of 08 August 2004" stated that:

  > ***It is clear from the specification of application 10/628,891 that "side" is not intended to include the top and bottom, but rather refers to front, back, starboard and port. In that meaning, Grün's 'C' and 'G' are not on different sides.***

  In the Office Action with a mailing date of 13 December 2004, it is stated:

  > ***Contrary to applicant's remarks, the inlets and outlets are on respectively different sides of the "recreational vehicle" A... The location of the inlets and outlets of Gron are on different sides of the vehicle as recited in the claims.***

  Grün's single claim is:

  > ***A tank-wagon for delivering fermented liquor, consisting of a wheeled frame, a tank supported on the same, said tank being provided with a***

> ***dome, a receiver for carbonic acid supported on the wheeled frame of the tank, a valve discharge-pipe connected with the bottom of the tank, a gas-supply pipe connecting the receiver with the dome of the tank, a pressure-reducing valve in said gas-supply pipe, and a valved pipe connecting the gas-supply pipe, beyond the pressure-reducing valve, with the discharge-pipe, substantially as set forth.***

Careful review of Grün's claim indicates nothing in that claim that would indicate that the beer supply pipe and the beer discharge pipe are on different sides (in the sense of front, back, starboard and port) of the beer wagon.

- Figure 1 of Grün shows "C" above the beer wagon's tank toward the rear of the beer wagon. Figure 1 and Figure 2 of Grün show "G" below the beer wagon's tank toward the rear of the beer wagon. With features situated adjacent to the curved surface of a cylinder, it

> ***dome, a receiver for carbonic acid supported on the wheeled frame of the tank, a valve discharge-pipe connected with the bottom of the tank, a gas-supply pipe connecting the receiver with the dome of the tank, a pressure-reducing valve in said gas-supply pipe, and a valved pipe connecting the gas-supply pipe, beyond the pressure-reducing valve, with the discharge-pipe, substantially as set forth.***

Careful review of Grün's claim indicates nothing in that claim that would indicate that the beer supply pipe and the beer discharge pipe are on different sides (in the sense of front, back, starboard and port) of the beer wagon.

- Figure 1 of Grün shows "C" above the beer wagon's tank toward the rear of the beer wagon. Figure 1 and Figure 2 of Grün show "G" below the beer wagon's tank toward the rear of the beer wagon. With features situated adjacent to the curved surface of a cylinder, it is problematic to refer to which things are on the same side, Grün's "C" and "G" are toward the rear and adjacent to the curved surface. They are only on "different sides" in the top and bottom sense, not in the front, back, starboard and port sense clearly intended in application 10/628,891.

- If one were to create a recreational vehicle with the plumbing system disclosed by Reid, except modified by placing the water inlet in the location most like the location Grün depicts for his beer supply pipe and placing a water outlet in the location most like the location Grün depicts for his beer discharge pipe, the recreational vehicle would have its city water connection on its top, somewhat rear of the center. Likewise, the water outlet would be at the rear of the recreational vehicle, below the body of the recreational vehicle. While that combination of locations might not be truly inoperable, the result would render the recreational vehicle plumbing system less than satisfactory for its intended purposes. This, also, argues against a 35 U.S.C.§103 rejection based on Reid in view of Grün. ***In re Gordon***, 733 F.2d 900, 221 USPQ 1125 (Fed. Cir. 1984).

- References used for rejection of claims based on 35 U.S.C.§102 are valid, even if antique. There is no bright-line expiration date for references used for rejection of claims based on 35 U.S.C.§103. However, for references proposed for use for rejection of claims based on 35 U.S.C.§103, the age is a factor which should be considered.

- The fact "that a reference is 10 to 20 years old" was found to be "a factor." ***In re Worrest***, 96 USPQ 381, 384 (C.C.P.A. 1953).
- The reference date being "almost thirty years prior" to the filing date of an application was noted. ***SRI International, Inc. v. Advanced Tech. Labs., Inc.***, Civ. App. No. 93 1074, slip op. at 6 (Fed. Cir. Dec. 21, 1994).
- The Grün reference was approximately a century old at the time of the invention of that disclosed in application 10/628,891.
- It is worth noting that the Grün reference is well before the dawn of recreational vehicles in anything like the modern sense.

It is respectfully requested that the claims be allowed.

Sincerely,

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Certificate of Transmission
I hereby certify that this correspondence is being facsimile transmitted to the United States Patent & Trademark Office, FAX Number (703) 872-9306 on 24 December 2004.

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